United Nations CERD/C/SR.2662

International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
23 August 2018

Original: English

Committee on the Elimination of Racial Discrimination
Ninety-sixth session

Summary record of the 2662nd meeting
Held at the Palais Wilson, Geneva, on Thursday, 16 August 2018, at 3 p.m.

Chair: Mr. Amir

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The meeting was called to order at 3 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined tenth and eleventh periodic reports of Japan (CERD/C/JPN/10-11 and CERD/C/JPN/Q/10-11)

1. *At the invitation of the Chair, the delegation of Japan took places at the Committee table.*

2. **Mr. Ihara** (Japan), introducing his country's combined tenth and eleventh periodic report on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/JPN/10-11), which had been drafted with the broad participation of civil society, said that the Government of Japan reaffirmed its commitment to cooperating with the international community and with civil society to protect and promote human rights for all. In the intervening period since the previous dialogue with the Committee, Japan had continued its efforts to improve the human rights situation at home and abroad. In recent years, the issue of hate speech had attracted growing attention. The Government had responded by enacting, in 2016, the Hate Speech Elimination Act, which aimed to foster public awareness of the issue, promote understanding through human rights education and bolster efforts to eliminate unfair discriminatory speech and behaviour. Measures carried out within the framework of that Act included improving access to human rights counselling for foreigners and establishing a counselling platform for victims of hate speech. Regarding the indigenous Ainu people, the Government was in the process of constructing a national centre aimed at reviving the Ainu culture and promoting ethnic harmony. Scheduled to open in 2020, the centre would stand as a symbol of a society that cherished vibrant, rich and diverse cultures and respected the dignity of the indigenous people of Japan.

3. As an island nation, a stereotype existed of Japan as an insular and exclusive culture; and yet, millions of tourists were warmly welcomed to the country each year. Japanese people also cheered on athletes from diverse origins and backgrounds. As host of the upcoming 2020 Olympic and Paralympic Games — and in compliance with the Convention and the Olympic Charter, which established that sport was a human right to be enjoyed by all without discrimination — Japan would continue to work tirelessly to contribute to the protection and promotion of human rights and would not tolerate any form of discrimination, including discrimination based on race or ethnicity.

4. Replying to some of the issues raised by the Committee in its list of themes (CERD/C/JPN/Q/10-11), he said that, as part of efforts to eliminate hate speech, the Ministry of Justice had increased the number of foreign languages available for callers to a human-rights-related hotline and had expanded its network of human rights counselling centres for foreigners. To combat hate speech in the media and online, the Ministry of Justice had conducted a number of awareness-raising activities, including holding lectures on the subject, and had published content on the human rights of foreigners on its website and placed advertising banners on search engine websites. Appropriate measures were taken whenever complaints of online hate speech were made to the Legal Affairs Bureaus, which assessed the information to determine whether or not a human rights violation had occurred. In the event that the alleged act was deemed to be illegal, the Bureau concerned would ask the online service provider to delete the content in question. In 2017, 568 such requests had been made. In other cases, the Bureau would support the victim in taking his or her own measures. The Ministry of Internal Affairs and Communications was also working with online service providers to develop Model Terms and Conditions aimed at combating illegal and harmful content online.

5. Regarding paragraph 9 of the list of themes, concerning the situation of the indigenous Ainu people, the Government remained committed to implementing policy measures to protect and promote the rights of Ainu persons, all the while taking into account their views and ensuring their involvement. A survey on the living conditions of the Ainu people in Hokkaido Prefecture had revealed continuing improvements in their living standards. Efforts to close the remaining gap included government-backed

comprehensive programmes, such as counselling services and activities to raise awareness among the Ainu people of their human rights. Measures to ensure equal opportunity in education included scholarships to encourage Ainu students to progress to higher education. Indeed, the number of Ainu entering tertiary education had increased by 7.5 per cent between 2013 and 2017. The Government was continuing in its endeavours to digitize audio materials in the Ainu language in an effort to preserve that endangered language. It had also held events, with the participation of Ainu speakers, to raise awareness of languages that were in danger of extinction and had met with researchers and local officials working in that subject area with a view to exchanging information. Support was also provided for the projects of the Foundation for Research and Promotion of Ainu Culture, which aimed to promote Ainu research, language and culture. As far as land ownership was concerned, the Ainu people had the same property rights as anyone else in Japan. However, plans on ways to restore traditional Ainu living habitats were being considered as another step towards preserving Ainu culture.

6. Legislation to ensure the proper training and protection of technical interns had come into force in November 2017, along with the attendant basic policy. Among other aspects, the law prohibited violations of the human rights of foreign trainees, set out the duties and responsibilities of supervising organizations and established an organization for the training of technical interns. On-site inspections were conducted by labour inspectors to ensure compliance with all current legislation.

7. Regarding human trafficking, Japan had become a party to the United Nations Convention against Transnational Organized Crime and the Trafficking in Persons Protocol in 2017. Efforts had been made to gain a better understanding of human trafficking in order to prevent its occurrence, identify victims and provide them with appropriate support. For example, the national police force collected relevant information, conducted awareness-raising activities and operated an anonymous hotline with a view to identifying and protecting victims at an early stage. Women's Consulting Offices planned to increase the support they offered to trafficking victims, which included providing them with clothing, housing and other services, while the coastguard provided victims of crimes, including trafficking victims, with information on legal procedures in Japan. The Immigration Control and Refugee Recognition Act had also been amended to grant foreign trafficking victims special permission to stay in the country.

8. The issue of comfort women had arisen long before the ratification of the Convention by Japan and it did not fall under article 1 of the Convention. However, the Government recognized that the issue had been an affront to the honour and dignity of a large number of women, and it had repeatedly presented sincere apologies and expressed its remorse to former comfort women. Issues of compensation had been settled by a number of treaties and the Government had made large contributions to the Asian Women's Fund, which had offered medical and welfare support and atonement funds to former comfort women until 2007. The Governments of Japan and the Republic of Korea had reached an agreement in December 2015, in which they had confirmed that the comfort women issue had been finally and irreversibly resolved.

9. **Mr. Bossuyt** (Country Rapporteur) requested updated information on efforts to align the definition of racial discrimination in the Constitution with article 1 of the Convention, to enact comprehensive legislation prohibiting racial discrimination and to establish a national human rights institution that complied with the Paris Principles. He also requested information on measures taken to withdraw the State party's reservations to article 4 (a) and (b) of the Convention; on the implementation and impact of measures to combat hate speech in the media and on the Internet, particularly through the Broadcast Act; on measures to prevent incitement to racial discrimination and racist violence through the media; and on the numbers of complaints, investigations, prosecutions and convictions for hate speech and hate crimes, including sanctions against public officials and politicians.

10. As the Hate Speech Elimination Act of 2016 only targeted persons lawfully residing in Japan, failed to address hate speech by private individuals and was reportedly an ineffectual remedy for minorities, the State party should promptly enact a comprehensive basic law to prohibit discrimination. It should also strictly condemn discriminatory statements by public officials and, if possible, remove them from office. Referring to the

incident described in paragraph 130 of the periodic report, he asked which legal provisions had been invoked to prosecute the perpetrators and what penalties had been imposed.

11. The section of the State party's report on the Ainu people failed to provide information on the Ainu Advisory Council, Ainu representation in the Council, and the rights of Ainu to land and natural resources. The Committee had been informed of cases of discrimination in the workplace, schools and public services. Ainu groups had demanded national social welfare policies and educational grants, special representation in local and national governments, and a formal governmental apology for historical injustices. He requested information on the legal effects and impact of the Diet resolution that had recognized the Ainu as an indigenous ethnic group; on measures taken to improve the access of Ainu people to employment and education, to protect their rights to land and natural resources, and to realize their right to their culture and language; and on the number of Ainu representatives involved in the Promotion Policy and other consultative bodies. The State party should conduct research on the remains and burial artefacts of the Ainu people, incorporate their history and culture as a subject in public education, enable them to receive education in their own language and enhance economic support for their right to higher education.

12. Noting that the State party rejected the status of the Ryukyuans as an indigenous people, he said that the Association of the Indigenous Peoples in the Ryukyus had encouraged the Committee to recommend to the State party that it recognize all peoples in the Ryukyus, apart from those who had migrated from Japan, as indigenous and that it protect their culture, tradition and languages.

13. Buraku advocacy groups continued to report that, despite socioeconomic improvements, widespread discrimination persisted in employment, marriage, housing and property assessment. The State party should investigate all incidents relating to illegal abuses of family registration and punish those responsible, because illegal access to such data could expose families to discriminatory acts. The State party should also identify discrimination against the Burakumin as discrimination based on descent and should establish a system of legal relief for victims of such discrimination.

14. As the Committee had received reports of ethnic profiling of Muslims, it urged the State party to prevent its law enforcement officials from relying on ethnic or ethno-religious profiling of Muslims.

15. The State party provided no specific information in its report on measures to prevent violence against indigenous and minority women, on reported cases and prosecutions, and on a review or reform of discriminatory aspects of the current legislation. The Committee would welcome information on the impact of the 2015 Fourth Basic Plan for Gender Equality on the prevention of violence against minority and indigenous women; on the number of reported cases of violence; and on measures taken to prevent the expulsion of foreign women married to Japanese citizens or to non-citizens with permanent residence in the event of divorce.

16. The agreement between the Governments of Japan and of the Republic of Korea on comfort women had been criticized by civil society organizations and historians for its failure to provide an official, unequivocal recognition of responsibility by Japan for serious human rights violations committed by its military against women and girls before and during the Second World War. The Committee on the Elimination of Discrimination against Women had expressed regret in its concluding observations on the combined seventh and eighth periodic reports of Japan in 2016 (CEDAW/C/JPN/CO/7-8) that the agreement had not fully adopted a victim-centred approach and had recommended that full and effective redress and reparations should be provided to the victims. The Committee would welcome additional information on efforts to resolve the issue of comfort women, including the outcome of investigations into violations of their rights and the provision of adequate reparations to surviving comfort women and their families.

17. It had been report d that foreign permanent residents in the State party, including many who were born, raised and educated in the country, were subjected to various forms of entrenched societal discrimination, including restricted access to housing, education, health care and employment opportunities.

18. The Technical Intern Training Programme had been harshly criticized by human rights advocates for causing a wide range of human rights abuses. The number of trainees had increased by 63 per cent in three years and now stood at about 275,000. It had been reported that in November 2017 the Government had accepted the first of 10,000 Vietnamese nationals to be admitted over a three-year period to meet the country's labour shortage. Non-governmental organizations (NGOs) maintained that the Government's oversight was insufficient. The Committee requested additional information on the implementation and impact of the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees.

19. According to a recent Foreign Residents Survey commissioned by the Ministry of Justice, 40 per cent of the more than 4,000 foreign nationals surveyed claimed to have been refused tenancy because of their status; 30 per cent claimed to have been subjected to insulting or discriminatory remarks; and 25 per cent claimed to have been denied employment. The Committee had also been informed that foreign nationals and citizens who looked like foreign nationals were prohibited from entering privately owned facilities serving the public, including hotels and restaurants. The Government allegedly failed to enforce laws prohibiting such restrictions.

20. According to the State party, any person employed by an applicable company was eligible for services, regardless of nationality, under the Welfare Pension Insurance Law and the Health Insurance Law. He asked whether the Committee could infer that nationality was never a factor of exclusion of a person's right to a pension.

21. The Committee would welcome a relaxation of the nationality requirement for access to office as a civil servant, at least for long-term foreign residents and people from the former colonies and their descendants. Settled foreign nationals suffering from poverty should also be entitled to receive public assistance. The State party should terminate the requirement that permanent residents obtain a re-entry permit prior to departure from the country. The Supreme Court should also reform its practice of refusing to appoint foreign nationals as civil and family conciliation commissioners.

22. Although some Koreans had lived for many generations in Japan, they remained foreign nationals and were prevented from voting in local elections and working as civil servants. In July 2017, the Osaka District Court had ruled as illegal the Government's exclusion of Osaka Korean High School from its high school education tuition waiver programme. Korean schools were excluded due to concerns that the subsidies might be misused because of the schools' historical ties to the Democratic People's Republic of Korea. The Committee recommended that Korean schools be covered by the Act on Payment of the High School Tuition Support Fund and that local governments should apply the subsidy payment system to Korean schools in accordance with the principle of children's equal right to education.

23. The Action Plan to Combat Trafficking in Persons had been updated in 2014, but the impact of the updates was unclear. Statistics on the number of convictions had been provided, but the number of arrests and convictions was quite low.

24. In 2017, asylum applications in Japan had risen to almost 20,000. However, the recognition rate, at just 0.17 per cent, was extremely low. At the end of 2016, 430 asylum seekers had been detained. The Committee had been informed that the detention of asylum seekers for unspecified periods remained a problem. Applicants for refugee status were normally unable to work unless they had valid short-term visas. The Refugee Assistance Headquarters provided small stipends to some applicants who faced financial difficulties. As persons whose refugee applications were pending or on appeal were denied the right to social welfare, they were completely dependent on overcrowded government shelters, illegal employment or NGO assistance. Asylum seekers were sometimes informally employed without work permits on provisional release from detention, which rendered them vulnerable to mistreatment. The State party should therefore introduce a maximum period for immigration detention and allow applicants for refugee status to work once six months had elapsed since their application.

25. **Mr. Kut**, speaking as Follow-up Coordinator, said that the Committee had requested the State party in its previous concluding observations (CERD/C/JPN/CO/7-9), adopted in

August 2014, to submit an interim follow-up report on issues raised in three paragraphs within one year. The State party had submitted two follow-up reports, the first in August 2016 and the second in December 2016. He would welcome clarification of the label "Spouse or Child of Japanese National" in annex 7 to the State party's report, which gave information relating to "foreign residents". He found it strange that a child of a Japanese national should be considered a foreign resident.

26. **Mr. Marugán** said that he wondered whether the State party intended to withdraw its reservations to article 4 of the Convention, as the Committee had previously recommended. If not, he asked the delegation to explain, in the terms of the Committee's general recommendation No. 35, why the State party considered them necessary.

27. According to the State party's report, Japan would fulfil its obligations under article 4 only provided they did not conflict with constitutional guarantees, notably on freedom of expression. Thus, in the case referred to in paragraph 130 of the report and mentioned by Mr. Bossuyt, the four individuals who had been advocating exclusion of Korean schools had been convicted of the crimes of forcible obstruction of business and insulting behaviour. Did that mean the court had not deemed racial prejudice to be an aggravating factor and that there had been no conviction for incitement to racial discrimination? As he understood it, the Hate Speech Elimination Act did not criminalize such actions and hate speech and hate crimes remained widespread. In that context, he would appreciate an explanation, again in the terms of general recommendation No. 35, of the precise effects of the State party's reservations to article 4 in terms of national law and policy.

28. As he understood it, crimes of violence were punished but no account was taken of any racist motive for such crimes. Again he would appreciate an explanation of the precise effects of the reservations in that regard. He wondered, for example, whether it would be a criminal offence to utter the words "Kill Koreans", whether such a case had ever arisen and what action had been taken. Did the State party not view such utterances as incitement to racial violence? If it did, did it not also agree that freedom of speech should be restricted in such cases?

29. According to the Ministry of Justice foreign residents survey conducted in March 2017, around 40 per cent of respondents had experienced discrimination in housing, 25 per cent had encountered discrimination in employment and 30 per cent had received insults in the past five years. That revealed a situation of serious discrimination. He would like to know whether the survey was to be conducted each year. He would also like to know whether the State party had any statistics on hate crimes and hate speech.

30. He wondered whether victims felt afraid to make complaints. If so, what was done, either directly by local government or municipalities, or indirectly by means of financial or other support to concerned NGOs, to help victims overcome that fear? He would like to know whether training on hate speech and hate crimes was provided to the judiciary, the police and government officials, and what impact the State party believed education had generally on hate speech.

31. He would like to know what the requirements were for obtaining Japanese nationality. Lastly, he asked whether Koreans felt free to wear ethnic dress, what difficulties they faced in maintaining their own names and dual nationality, and how many judges, school principals and police officers were of Korean origin.

32. **Ms. McDougall** said that the agreement on the question of "comfort women" reached between the governments of Japan and the Republic of Korea was not an appropriate means of resolving the issue. In the 25 years she had worked on the question, she had never been able to understand what prevented the State party from simply offering apologies and reparation in a manner the victims felt appropriate to their dignity. Such an agreement did not extinguish individual claims. The way forward was simple: to involve the victims themselves in the design of adequate reparations and an appropriate form of apology. The problem was exacerbated by the fact that officials were not punished for hate speech against Koreans.

33. She would appreciate hearing the delegation's comments on violence against women in Okinawa and the situations involving the United States military stationed there.

34. **Mr. Murillo Martínez**, noting that, according to the 2013 Hokkaido Ainu living conditions survey, 33 per cent of respondents had experienced discrimination in school, employment, marriage or other situations, asked what action had been taken as a result. Did the State party intend to retain the question on racial discrimination in future surveys? Given the State party's extensive commercial ties outside the country, he wondered to what extent Japanese companies abroad were expected to apply the same human rights standards that applied within the country.

35. **Ms. Izsák-Ndiaye** said that, in determining whether an utterance qualified as punishable hate speech, the whole context of the situation needed to be analysed. However, it was important not to underestimate the social damage that could be done by public expressions of hatred and it was regrettable that the frequency and size of xenophobic demonstrations had increased in Japan in recent years.

36. Given that intercultural dialogue and exchange were necessary in order to tackle the root causes of intolerance, she said that she would like to know in what way the school curriculum allowed minorities and indigenous peoples adequate representation in order to enrich Japanese society with their own culture and traditions. How did the State party ensure that minorities' voices were adequately broadcast in the media in respect of issues affecting them? She wondered how the State party facilitated the registration and functioning of minority media organizations to enable them to counter hate speech in the media.

37. She was concerned that, despite the entry into force of the Act on the Promotion of the Elimination of Discrimination against Buraku, discrimination against Burakumin was not clearly prohibited and no action plan was foreseen to ensure equal opportunities for that group. She would like to know whether the State party intended to amend the law in order to remedy the current shortcomings and make specific provision to ensure equal treatment. Did the State party plan to guarantee the effective participation of the Burakumin, particularly women, in decision-making processes that affected them directly? She wondered what measures were planned to protect Buraku people from illegal access to their family data. Was the State party planning to establish a coordinating body on the relevant issues within the Cabinet Office? Lastly, she said that she would appreciate information from the delegation on education and awareness-raising measures to eliminate discrimination against the Burakumin.

38. **Mr. Calí Tzay** said that he understood that, under the Public Assistance Act, non-nationals were excluded from receipt of public assistance. The Government's position was that they might receive assistance as a favour; the Supreme Court had confirmed that it was not a right and that non-nationals were not protected by the Act. Moreover, whereas Japanese nationals had legal recourse in the event of an unfavourable response to their application, non-nationals did not.

39. It was his understanding that the State party's system for the revocation of the residency status of foreign nationals discouraged foreign women married to Japanese men from reporting domestic abuse for fear that their residency permits would be revoked. The Committee's view was that the State party should abolish the system. The State party should also conduct studies on discrimination on the grounds of race and nationality, collate up-to-date statistical data on socioeconomic indicators and establish a general, comprehensive anti-discrimination law that prohibited discrimination based on race, rather than relying solely on anti-discrimination provisions contained in the Constitution.

40. He was interested to know whether the State party would consider establishing a comprehensive law on the protection of the rights of residents from the former colonies of Japan, such as ethnic Koreans, and their descendants, thus affording them protection on an equal footing with Japanese citizens, and whether it planned to grant them the right to vote or the right to occupy posts in the public administration. It would also be useful to know whether the State party would consider introducing classes in schools on the language, culture and history of ethnic Koreans in Japan.

41. **Mr. Avtonomov** said that he would be grateful for the State party's comments on reports that its special re-entry permission system discriminated against nationals of the Democratic People's Republic of Korea living in Japan, who were excluded from the

programme because their passports were not considered valid by the authorities for political reasons.

42. Although the information provided on the Technical Intern Training Programme was helpful, he would be grateful for the State party's comments on reports that other types of foreign interns continued to face employment issues.

43. **Ms. Li** said that it would be useful to learn whether the State party would consider withdrawing its reservation to subparagraphs (a) and (b) of article 4 of the Convention. She would also welcome additional information on the measures that the State party had taken to prevent hate crimes, prosecute their perpetrators and afford remedies to their victims.

44. She invited the State party to comment on reports that technical intern trainees continued to endure frequent violations of their human rights and poor working conditions, despite the promulgation of the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees, and were often forcibly repatriated before the end of their contracts. It would be interesting to have a full account of any steps that the State party had taken to address that issue.

45. She found it regrettable that, in spite of the Committee's recommendations, no positive action had been taken by the State party to resolve the issue of comfort women. She hoped that the Government would promptly take action to deal with the issue.

46. **Ms. Chung** said that the continuing issue of comfort women was an affront to the dignity of all women. The majority of comfort women came from the Korean peninsula, but many victims hailed from other countries in Asia and even Europe. Any measures that the Government took to resolve the issue would therefore be celebrated throughout the world as a victory for human rights, especially those of women. The State party should condemn any attempts to deform or deny the reality of the events endured by comfort women.

47. The Committee had received reports that the national Government had pressured local governments to stop providing subsidies to ethnic Korean schools because of their connection with the Korean peninsula, in other words, for political reasons. The national Government should refrain from making such demands of local governments.

48. She wished to know whether the State party planned to take measures to eliminate online hate speech. It would also be useful to know why protection under the Hate Speech Elimination Act was extended only to persons originating from outside Japan, rather than to all victims of hate speech. In addition, the State party should clarify whether it planned to establish a national human rights institution that met the criteria established under the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

49. Lastly, she would welcome an explanation of why the Government had not accepted the conclusions and recommendations of a number of United Nations bodies regarding discrimination against Buraku communities and the definition of Burakumin.

50. **Mr. Diaby** said that he wished to know whether the State party planned to introduce self-regulatory mechanisms for online, written and audiovisual press with a view to controlling and reprimanding hate speech. He was also interested to know whether the State party collated statistics regarding the harm caused to the Ryukyu community in Okinawa by accidents linked to the presence of military air force bases on the island and whether it planned to take any action to protect the community from further harm. In addition, it would be useful to know whether the State party had considered acceding to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness. Lastly, he would appreciate further details on the State party's policy regarding the ethno-religious profiling of the Muslim minority in Japan.

The meeting rose at 6 p.m.